

OLC 76-0714/b

1 APR 1976

Honorable Henry M. Jackson, Chairman
Committee on Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

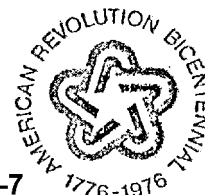
Dear Mr. Chairman:

This is in response to your request for our comments on S.1864, a bill "To establish a National Energy Information Administration and a National Energy Information System, to authorize the Department of the Interior to undertake a survey of United States energy resources on the public lands and elsewhere, and for other purposes." The proposed Energy Information Administrator would be given broad authority to obtain, coordinate, and evaluate all information and documents related to the energy industry and energy resources under the control of Federal agencies and private businesses.

We understand that the Federal Energy Administration and the Department of the Interior oppose this bill on certain substantive grounds.

I defer to the views of the Administrator of the Federal Energy Administration and the Secretary of the Interior regarding the substantive merits of the bill with respect to U.S. energy resources on the public lands and for the bill's other related purposes. I wish to bring to your attention, however, certain specific problems related to intelligence regarding the proposed Administration's broad coordination responsibilities, as well as those provisions dealing with the control of information once made available to the National Energy Information Administration.

The National Security Act of 1947 charges the Central Intelligence Agency and the Director of Central Intelligence with primary responsibility for coordinating the foreign intelligence activities of the United States. The Central Intelligence Agency already provides energy-related foreign intelligence information to various agencies within the Government. If the proposed Energy Administration were established, this Agency would similarly provide substantive intelligence information to the Administrator



in line with our responsibility under Section 102(d)(3) of the National Security Act of 1947, as amended (50 U.S.C.A. 403), to disseminate foreign intelligence within the Government. I am concerned that certain sections of S.1864, for instance, Sections 2(b)(4), 103(a), and 104(a), giving the Energy Administrator responsibility for correlating and evaluating energy information, may conflict with the statutory responsibilities of the Director of Central Intelligence in the foreign intelligence field.

I am also concerned over other sections of the bill, for example, Sections 202(c), 204(e), 206(c)(4), 401(a)(2), and 401(b) related to the manner in which the Energy Administrator would disseminate and protect energy information, including any that might be furnished by this Agency. Section 102(d)(3) of the National Security Act provides that the Director of Central Intelligence "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." In my view, it is essential that these foreign intelligence responsibilities remain clearly within the purview of the Director of Central Intelligence and the Central Intelligence Agency. I feel the specific limitations on classified information in the bill, and particularly, Section 401 concerning the role of the Comptroller General in evaluating classified information, are not compatible with the statutory responsibilities placed on the Director of Central Intelligence by the Congress in the Central Intelligence Agency Act of 1949.

Because of these considerations, I would suggest that--without regard to the substantive merits of the bill--language be inserted to make clear that nothing in the bill be construed to alter or conflict with the foreign intelligence responsibilities of the Director of Central Intelligence and the Central Intelligence Agency under Section 102 of the National Security Act of 1947, as amended (50 U.S.C.A. 403).

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

/s/ George Bush

George Bush
Director

Enclosure

Distribution:

Orig - Add'e	1 - DDI	1 - OMB (Mr. Countee)
1 - DCI	1 - OGC	1 - OLC Subject
1 - DDCI	1 - DDO	1 - OLC Chrono
1 - ER	1 - DCD	1 - OLC OMB Liaison